

FILED BY CLERK

JAN 21 2011

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2010-0276-PR
)	DEPARTMENT A
Respondent,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
LOUIS ANTHONY TRUJILLO,)	the Supreme Court
)	
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20082521

Honorable Deborah Bernini, Judge

REVIEW GRANTED; RELIEF DENIED

Barbara LaWall, Pima County Attorney
By Jacob R. Lines

Tucson
Attorneys for Respondent

Louis A. Trujillo

Tucson
In Propria Persona

H O W A R D, Chief Judge.

¶1 Pursuant to a plea agreement, petitioner Louis Trujillo was convicted of trafficking in stolen property. He seeks review of the trial court's order denying his of-right petition for post-conviction relief, filed pursuant to Rule 32, Ariz. R. Crim. P., in

which he alleged, inter alia, that there had been an insufficient factual basis for his guilty plea.¹ “We will not disturb a trial court’s ruling on a petition for post-conviction relief absent a clear abuse of discretion.” *State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). Trujillo has not sustained his burden of establishing any such abuse here.

¶2 In his petition for review, Trujillo asserts that the jewelry he was convicted of trafficking had “in reali[]ty . . . belonged to [him].” To the extent he thereby argues the trial court abused its discretion in concluding there had been a sufficient factual basis for his guilty plea, we disagree. As the court correctly concluded, Trujillo “admitted to every essential element of the crime[] to which he pled guilty.” At the change of plea hearing, Trujillo admitted that “what I’m accused of I’m guilty of”; that he had not had permission to take the jewelry he was accused of trafficking; and that he had pawned it or sold it. The court did not abuse its discretion in finding those facts sufficient to establish Trujillo had trafficked stolen property in violation of A.R.S. §§ 13-2301(B)(2), (3), 13-2307(A).

¶3 Trujillo also apparently suggests his attorney at sentencing was ineffective in failing to object to Trujillo’s mother’s statements, on the ground that the woman who

¹Trujillo’s petition for post-conviction relief apparently encompassed not only his guilty plea to trafficking in CR20082521, but also a guilty plea to kidnapping as a domestic violence offense in CR20083660. His petition for review, however, lists only CR20082521 and discusses only the facts of that case. We therefore limit our review to that action. And, because Trujillo makes no argument in his petition for review about the other claim presented in his petition for post-conviction relief, we do not address it. *See* Ariz. R. Crim. P. 32.9(c)(1)(ii) (petition for review shall contain “[t]he issues which were decided by the trial court and which the defendant wishes to present to the appellate court for review”).

gave the statements was not, in fact, his mother, as Trujillo now claims. And he also argues he did not deserve an aggravated sentence. We decline to address these claims because they were not raised in his petition for post-conviction relief. This court will not consider for the first time on review issues that have neither been presented to, nor ruled on by, the trial court. *State v. Ramirez*, 126 Ariz. 464, 468, 616 P.2d 924, 928 (App. 1980); *see also* Ariz. R. Crim. P. 32.9(c)(1)(ii). Therefore, although we grant review, we deny relief.

/s/ Joseph W. Howard

JOSEPH W. HOWARD, Chief Judge

CONCURRING:

/s/ J. William Brammer, Jr.

J. WILLIAM BRAMMER, JR., Presiding Judge

/s/ Philip G. Espinosa

PHILIP G. ESPINOSA, Judge